

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

IN ADMIRALTY

ELIO ELISEO HODGSON CUNNINGHAM

Plaintiff,

v.

Case No.: 22-CV-23621-SEITZ

CELEBRITY CRUISES, INC.

Defendant.

_____ /

UNOPPOSED MOTION TO STAY TIME TO FILE JOINT SCHEDULING REPORT

Celebrity Cruises files this unopposed motion seeking a stay of the requirement to file a Joint Scheduling Report until after the District Court rules on the pending motion to dismiss and to compel arbitration filed by Celebrity on February 7, 2023. (Dkt. #11.)

INTRODUCTION

The District Court ordered a Joint Scheduling Report before Celebrity filed its motion to dismiss. Celebrity's motion to dismiss maintains that the case is subject to binding arbitration in Cyprus and not litigation before this District Court. Because the motion to dismiss challenges the jurisdiction of the District Court to hear this case, because the order requiring a joint scheduling report requires the parties to provide Rule 26 initial disclosures (Dkt. #6, p. 3) and Celebrity does not want to engage in litigation or discovery and potentially waive its right to seek arbitration of this matter, and because judicial economy is best served by waiting until the District Court considers the motion to dismiss in lieu of arbitration, Celebrity seeks a stay of the requirement to file a joint scheduling report.

MEMORANDUM OF LAW

1. On November 15, 2022, the District Court issued an order requiring the parties to file a Joint Scheduling Report. (Dkt. #6.)

2. On January 11, 2023, Celebrity was served with the complaint. On January 31, 2023, Celebrity moved for a brief extension in which to file its response to the plaintiff's complaint. (Dkt. #9.)

3. On February 2, 2023, the District Court granted Celebrity's motion for an extension of time and ordered the parties to complete the Joint Scheduling Report by February 15, 2023. (Dkt. #10.)

4. After the District Court orders, on February 7, 2023, Celebrity filed its motion to dismiss and to compel arbitration of the plaintiff's complaint. (Dkt. #11.) Celebrity's motion seeks dismissal of the complaint and compulsion of arbitration in Cyprus. Celebrity asserts that the District Court's sole jurisdiction over this matter is to conduct a "limited review" of the arbitration agreement.

5. The plaintiff's response to the motion is due on February 21, 2023.

6. Celebrity believes judicial economy is best served by staying the requirement to file a Joint Scheduling Report until after the District Court rules on Celebrity's motion to dismiss. Additionally, Celebrity is concerned about potential waiver of its rights if it is forced to engage in discovery (e.g., prepare and serve initial disclosures) and litigation before this District Court when it is challenging the jurisdiction of the District Court to determine the merits of this dispute.

7. Celebrity confirms this motion is brought in good faith and not for the purpose of delay.

8. Counsel for Celebrity has conferred with counsel for the plaintiff, who has advised that he does not oppose the relief sought in this motion.

WHEREFORE, the Celebrity requests that the District Court stay the requirement to provide a Joint Scheduling Report, and the attendant discovery contemplated by the Order requiring a Joint Scheduling Report, until after it rules on Celebrity's motion to dismiss and to compel arbitration.

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LOCAL RULE 7.1(a)(3) CERTIFICATION

Per Local Rule 7.1(a)(3), counsel for Celebrity conferred with counsel for the plaintiff, who confirmed they do not oppose the relief sought in this motion.

/s/Elbert L. Martin, IV
ELBERT L. MARTIN, IV
Florida Bar No. 98010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 15, 2023 the foregoing was filed with the Clerk of Court using the CM/ECF system.

/s/Elbert L. Martin, IV
ELBERT L. MARTIN, IV
Florida Bar No. 98010